

JAMES M. WAGSTAFFE (95535)  
ADRIAN J. SAWYER (203712)  
**KERR & WAGSTAFFE LLP**  
100 Spear Street, Suite 1800  
San Francisco, CA 94105-1528  
Telephone: (415) 371-8500  
Fax: (415) 371-0500

Attorneys for Plaintiff  
ART MICHELETTI

**BUCHALTER NEMER**  
**A Professional Corporation**  
JAMES B. WRIGHT (SBN: 63241)  
RICHARD C. DARWIN (SBN: 161245)  
333 Market Street, 25th Floor  
San Francisco, CA 94105-2126  
Telephone: (415) 227-0900  
Facsimile: (415) 227-0770

Attorneys for Defendants  
BANK OF AMERICA, N.A., and  
LARRY P. JOHNSTON

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

ART MICHELETTI, an individual,

Plaintiff,

v.

BANK OF AMERICA, N.A., a national  
banking association, LARRY P. JOHNSTON,  
an individual, and DOES 1-10,

Defendants.

Case No. C 08-3557 JSW

**STIPULATION AND ~~PROPOSED~~**  
**ORDER REMANDING ACTION TO**  
**STATE COURT**

## STIPULATION

WHEREAS, Plaintiff Art Micheletti filed this action on July 16, 2008, in California Superior Court for the County of San Francisco;

WHEREAS, both Plaintiff Art Micheletti and Defendant Larry P. Johnston are citizens of California;

WHEREAS, on July 24, 2008, Defendant Bank of America removed the action to this Court, arguing that diversity jurisdiction exists because Defendant Johnston's joinder was a sham;

WHEREAS, the parties have met and conferred and agree to remand this action to California Superior Court for the County of San Francisco without need for briefing or argument;

NOW THEREFORE, the parties to this action hereby stipulate that the action be remanded by this Court to the California Superior Court for the County of San Francisco.

DATED: September 5, 2008

**KERR & WAGSTAFFE LLP**

By /s/  
ADRIAN J. SAWYER

Attorneys for Plaintiff  
ART MICHELETTI

DATED: September 5, 2008

**BUCHALTER NEMER**

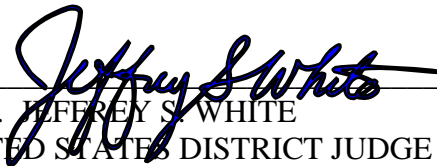
By /s/  
RICHARD C. DARWIN

Attorneys for Defendants  
BANK OF AMERICA, N.A., and  
LARRY P. JOHNSTON

**[PROPOSED] ORDER**

Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that this action be and hereby is REMANDED to the California Superior Court for the County of San Francisco.

Dated: September 8, 2008

  
HON. JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE